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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,019	01/25/2002	Gerhard Kring	112740-515	3593
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BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135				
			EXAMINER POLLACK, MELVIN H	
			ART UNIT 2145	PAPER NUMBER

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,019

Applicant(s)

KRING, GERHARD

Examiner

Melvin H. Pollack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> . |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/27/05 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.
2. The objection to the drawings has been withdrawn, and the replacement drawings are accepted.
3. The applicant argues that Sundaram does not expressly disclose the storing of a copy of any value, nor the synchronization of the copies thereof. Sundaram teaches the storing of certain values in an agent (Fig. 1, #6; EMS) in which a copy is storing in a manager of the agents (Fig. 1, #12). (See Fig. 5, #34 in view of Fig. 4, #22). The EMS sends information to the NMS whenever a state or attribute change occurs, causing synchronization between the tracked information (col. 10, lines 1-40), and the NMS polls the EMS in order to synchronize potentially missing data (col. 12, lines 30-50), and utilizes auditing features wherein “the primary task of the auditing is to keep the *synchronization* between NMS and EMS agents (col. 12, lines 50-55).” The examiner concentrates primarily upon synchronization after connection loss and reconnection, in which the values within the NMS must be updated. As written by the applicant, “if the polling requests come back with appropriate responses, the NMS determines that the communications loss problem with the EMS agent has been resolved, and *restores the current NE data* (tracked by the EMS, and therefore copied within the NMS) *in the NMS by polling the EMS* (P. 7, lines 9-13). The added step of clearing the values if there is a problem is irrelevant. What is relevant is that the NMS receives updated data after a connection loss – the synchronization of data – and replaces the old copies with new copies of this data.

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4. The applicant argues that the third data is not functionally related (P. 7, lines 17). The examiner stated that multiple values of the NE is stored in the EMS (Fig. 4), and copies stored and synchronized within the NMS (Fig. 5). The office action argues that the third field is not an indicator of who initiated the last change. But as there are a copying and synchronizing of multiple data fields, the precise number and type of fields are irrelevant. The claims do not specifically use the particular indicator in any way other than generically; a third field tracking the last alarm, for example, would not change the invention as drawn.

5. For the reasons above, the arguments are non-persuasive. This action is made final.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundaram et al. (6,564,341).

8. For claims 1, 6, and 7, Sundaram teaches a method and system (abstract) for synchronizing (col. 1, line 1 – col. 6, line 5) a network manager (Fig. 1, #12) to a network agent (Fig. 1, #6) in a communications network (Fig. 1, #2 and #14), in which managers maintain (col. 5, lines 1-30) data unit (Fig. 1, #16) copies of data units of their respective agents (Fig. 1, #10), the method comprising the steps of:

a. Storing a first value, which is unique for each data unit, in the agent (Fig. 4, #30);

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- b. Storing a second value, for indicating a number of changes to the associated data unit, in the agent (Fig. 4, #24);
 - c. Storing a third value in the agent (Fig. 4, #22);
 - d. Storing a copy of each of the first, second, and third values for each data copy in the manager (Fig. 5);
 - e. Comparing the copy of the first, second, and third values stored in the manager with the respectively associated first, second and third values stored in the agent (col. 15, lines 35-40); and
 - f. Synchronizing each data copy (col. 14, lines 5-15), whose copies of the first, second and third values stored in the manager do not match the associated first, second and third values stored in the agent (col. 15, line 15 – col. 16, line 10), to the associated data unit stored in the agent (col. 14, lines 15-30).
9. Sundaram does not expressly show that the third field of data indicates who initiated a respective last change. However these differences are only found in the non-functional data stored on the article of manufacture. Data related to the aforementioned three values is not functionally related to the substrate of the article of manufacture. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
10. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data in the fields of the article of manufacture as shown in Sundaram because such data does not functionally relate to the substrate of the article of

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manufacture and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. *See In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

11. For claim 2, Sundaram teaches wherein the step of comparing is carried out during access to the data copy which is stored in the manager (col. 17, line 48 – col. 18, line 40).

12. For claim 3, Sundaram teaches that the step of comparing is carried out whenever access is made to one of the data unit copies which are stored in the manager (col. 10, lines 1-37; col. 12, line 30-col. 13, line 5).

13. For claim 4, Sundaram teaches that the step of comparing is carried out only once when access is, in each case, made for a first time to one of the data unit copies which are stored in the manager, after one of a failure of the manager and connection of the manager to the agent (col. 15, line 13 – col. 18, line 30).

14. For claim 5, Sundaram teaches that the step of comparing is carried out for all the data copies which are stored in the manager (col. 13, line 5 – col. 14, line 15).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D. Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP
19 September 2005


RUPAL DHARIA
SUPERVISOR / PATENT EXAMINER